MESSAGE FROM THE CHAIR:
COMMERCIAL FINANCIAL SERVICES COMMITTEE

By Robert A. Zadek
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CFS committee members have been busy! Here is a brief report.

MEMBER SERVICES: We continue to increase our member services available through our Home Page (www.abanet.org/buslaw/cfs-ucc/home.html). At present, we are working to add the following services:

♦ Expanding the Survey of State Laws into numerous areas of interest to the commercial finance community;
♦ Adding a Master Commercial Finance Calendar;
♦ Adding, in the near future, a complete, linked directory of our members, including areas of specialization and representative clients.

NEW SUBCOMMITTEE: The Committee has added a new subcommittee dealing with International Secured Transactions, which will work in coordination with its counterpart at the UCC Committee.

MESSAGE FROM THE CHAIR:
UNIFORM COMMERCIAL CODE COMMITTEE

By Linda J. Rusch
Hamline University School of Law
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First of all, I want to thank everyone for their hard work at the ABA Annual Meeting in Atlanta. The various subcommittees, task forces, and working groups as always held an informative and interesting series of meetings. Planning is ongoing for programs and meetings at the Section Spring Meeting on March 22-26, 2000 in Columbus, Ohio. Mark those dates on your calendar and stay tuned for further information about topics to be addressed at that meeting.

I also want to welcome on board those who are new to the UCC Committee and encourage everyone to visit the UCC Committee Website at http://www.abanet.org/buslaw/cfs-ucc/home. The various chairs are working hard to make the web site an up to date place for obtaining information about what is going on in the groups. A special thanks to John Powers and Joanne Harrison for all of their work in making the web site an informative venue.

To continue to use the electronic environment effectively, the UCC Committee now has a new listserv through the ABA. If you have not received a message that you have been joined to the
Message from the UCC Chair, Con't.

listserv it is because the ABA does not have an email address for you or you are not listed as a UCC Committee member. To subscribe to the list, send your name and email address to Joanne Harrison at harrisoj@staff.abanet.org and she can add you to the list. The purpose of the list is to publicize committee events and to let people know about the work of the various subcommittees of the UCC Committee.

Members of the list may use the list to give short announcements or to request volunteers for projects. Given the size of the UCC Committee and the diversity of topics addressed by the various subcommittees, the list should not be used to discuss substantive work. If a group needs a list for a substantive law discussion, the ABA Business Law Section Technology Manager, Joanne Harrison, will be able to help set up a Listserv for that purpose.

As we look at the year ahead, so many of you are working on a variety of interesting projects that you may read about in this newsletter and on the web site. I am impressed by the diversity of talent and dedication that the committee members bring to their tasks. I look forward to working with you all over the coming years. As we start work in the post UCC revision world, I am confident that we will not lack for things to do as we wrestle with the changes and begin to understand how the new law will work in multitudes of transaction types.

Finally, a special thank you to Steve Weise, who has ended his term as co-editor of this newsletter, and a special welcome to Kathleen Hopkins, who will now coordinate activities for the CFS Committee’s contributions to the newsletter. We are lucky to have the dynamic duo of Kathi Allen and Kathleen Hopkins producing this publication!! I look forward to working with them to provide useful information to the members of the UCC Committee and the CFS Committee.

Message from the CFS Chair, Con't.

PROGRAMMING: The Committee is making great strides in avoiding scheduling conflicts with other panels and programs. In this regard, I would like to publicly acknowledge the work of Chris Rockers. He is the new Meeting and Programs Chair (Dave Willenzik's term having expired) and, although following in Dave’s footsteps is not easy, Chris has been doing an outstanding job in this vital role.

MIDYEAR MEETING: As you know the Spring Meeting will be in Columbus (that is in Ohio) on March 23-26, 2000. The Committee promises a strong presence – both in programming and attendance. In fact, we have so many programs and panels we had to promise the moon to the ABA to get scheduling room.

A WORD ON VOLUNTEER SOLICITATIONS: From time to time I solicit volunteers through a message on our Listserv. I get many responses and try to do my best to select the respondent best suited for the task. I want to thank all of you for stepping forward to donate your time, energy and expertise. I appreciate the interest of all of you who respond, and I hope you will not be discouraged if you are not selected. You will be in the future, I can assure you. See you all in Columbus.
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INTERNET SITES OF INTEREST

♦ TRADES Regs. Walter Eccard reports that the U.S. Treasury Department’s Bureau of the Public Debt’s website (located at www.publicdebt.treas.gov/cc/cctrades.htm) includes an article on Recent Developments with respect to Treasury’s “TRADES” Regulations. The article summarizes and explains the TRADES (Treasury/Reserve Automated Debt Entry System) regulations, for securities held in the commercial book-entry system. It also contains citations for the similar regulations adopted by various government-sponsored enterprises (such as Fannie Mae and Freddie Mac). There is a helpful list of the 50 states (and other jurisdictions) that Treasury has determined have adopted versions of revised Article 8 that are “substantially identical” to the uniform version.

♦ ABA Business Law Section: www.abanet.org/buslaw

♦ ABA Joint Committee on Electronic Financial Services: www.abanet.org/buslaw/efss/home.html

♦ UCC Revision Drafts: www.law.upenn.edu/library/ulc/ulc.htm

♦ UCC Revised Article 9: www.law.upenn.edu/library/ulc/ucc9/ucc9woc.htm

♦ UCITA: www.law.upenn.edu/library/ulc/ulc.htm#ucita

♦ Series of Papers on UCITA Issues: www.nccusl.org/pressrel/UCITAQA.HTM

♦ NCCUSL Meeting Schedule: www.nccusl.org/meetings.html

♦ UNCITRAL draft convention on cross-border receivables assignments: www.abanet.org/ftp/pub/buslaw/home.html

♦ Uniform Electronic Transactions Act Drafts: www.abanet.org/nccusl/home.html

♦ UNIDROIT and UNCITRAL web pages for the ongoing international commercial law projects are located at www.unidroit.org/ and www.uncitral.org/

Committee Joint Website

The UCC Committee and the Commercial Financial Services Committee share a joint Home Site on the Web at www.abanet.org/buslaw/cfs-ucc/home.html. Extensive information is available through the homesite about the organization, activities and leadership of both committees.

By direct link from the joint homesite, members of the UCC Committee can find out about meetings and agendas of the UCC Committee and each of its subcommittees and task forces, projects underway, leadership of the Committee and its subcommittees, publications, and a host of other information. This is an easy way to keep abreast of committee activity.

BUSINESS LAW TODAY

Got a great idea for a cutting edge story? Did you know that you can simultaneously contribute an article to the Commercial Law Newsletter and to Business Law Today? It is permissible so long as the submission to the magazine meets the BLT guidelines. For the details on what those guidelines are, go to the Business Law Today web site.

Still have questions?

E-mail Meg Milroy at MLMilroy@aol.com
The Commercial Financial Services Committee only communicates with its members through a Listserv. If you are a member of the Committee, and not a member of the list, you should join immediately, by sending the following email message to listserver@abanet.org:

subscribe bl-cfsc [your email address]

[Do not include the brackets.]

The List is the only way members can get last minute meeting information, information about openings in Committee Leadership, requests for speakers and presenters, and other time sensitive communications.

If you want to know if you are a member, send the following message to the listserver: who bl-cfsc. Within a few minutes you will receive a list of all subscribers, in no particular order. Just search the list (using your email search logic) for your email address.

The Uniform Commercial Code Committee focuses on all areas of commercial law, whether directly covered by the UCC (e.g. sales, leasing, payments, letters of credit, documents of title, investment securities or secured transactions) or tangentially covered (e.g. software contracting, suretyship, international commercial transactions and electronic money). The Committee monitors commercial law developments affecting commercial interests and actively participates in statutory reform efforts in commercial law. For more detailed information about the work of the various subcommittees, see our web site http://www.abanet.org/buslaw/cfs-ucc/home.html.

This list is to be used to publicize committee events and to let people know about the work of the various subcommittees of the UCC Committee. Please use the list to give short announcements or to request volunteers for projects. Given the size of the UCC Committee and the diversity of topics addressed by the various subcommittees, please do not use the list to discuss substantive work. If a group needs a list for a substantive law discussion, the ABA Business Law Section Technology Manager, Joanne Harrison, will be able to help you set up a Listserv for that purpose. Her email is harrisoj@staff.abanet.org. If you need help to subscribe or unsubscribe or need to change your email address, please contact Joanne Harrison and she will be able to help you.

For discussion of substantive issues, many Committee members subscribe to the UCCLAW-L listserv (sponsored by West Group, Publisher of the Uniform Commercial Code Reporting Service, with assistance from WashLawWEB and moderated by the editors of the UCC Bulletin/UCC Reporting Service.) This is the place to discuss and debate cutting-edge UCC issues.

To subscribe to the list, send an e-mail message to listproc@assocdir.wuacc.edu, leaving the subject line blank and including only the following message:

subscribe UCCLaw-L [your name]

You will receive a welcome message and additional instructions.
At its summer meeting in Atlanta, the Article 1 Subcommittee continued its efforts to coordinate with various law reform projects, including the revisions of other UCC articles and the newly passed uniform acts on electronic and computer-information transactions. The Subcommittee also debated a draft provision to resolve a lingering constitutional issue involving the right to trial by jury.

SPIRITED DEBATE CONTINUES

The Subcommittee began with a review of the difficulties that led to the withdrawal of Articles 2 and 2A at the Uniform Law Commissioners' (NCCUSL) annual meeting. Professor Linda Rusch, who had served as associate reporter, said that industry concerns, especially about consumer protections, led to the decision to suspend the reading of Revised Article 2. Troublesome issues included revised unconscionability provisions, particularly with respect to unnegotiated contracts or standard forms, and the strength (or weakness) of merger clauses under the revised parol evidence rule. The reading of the revision was stopped by the NCCUSL leadership just before reaching the provisoion on exclusion of warranties. Professor Richard Speidel, who had served as reporter, and Professor Rusch both resigned following the decision by the leadership.

Fred Miller, Executive Director of NCCUSL and vice-chair of the Subcommittee, also gave his view of the events of the summer. He noted that the agenda for the NCCUSL annual meeting was unusually crowded, and he said that the leadership had become worried about the "enactability" of Revised Article 2. He also gave the Subcommittee a preview of the organization's plan in response to the summer fireworks. Some of the details are now available in the press release of August 18, which is posted at www.nccusl.org. According to a September 17 letter from the Director of the American Law Institute, the ALI hopes to have another version of Revised Article 2 to consider at the May 2000 annual meeting.

The Article 1 Drafting Committee faces a daunting job of keeping up with the developments of Articles 2 and 2A while also taking into account the recently passed Uniform Computer Information Transactions Act and the Uniform Electronic Transactions Act. Professor Ben Beard, reporter for UETA, suggested that Article 1 would need to validate records (instead of writings) and electronic signatures in order to mesh with UETA and other e-friendly UCC revisions. Although Professor Beard foresaw no great difficulties in this regard, the Article 1 drafting committee should have a full agenda at its meeting in late October (after this newsletter goes to press).

The centerpiece for debate at the August meeting was Paul Turner's effort to resolve constitutional issues that arose first in the revision of Article 5, specifically section 5-108(e). Other articles potentially face the same issue, particularly in sections 1-201(10) and 4A-202(c). He suggested that the following section would obviate a ruling that the UCC violates the Seventh Amendment of the federal constitution or equivalent sections of state constitutions:
“No provision of this Act prohibits the court from determining that an issue is an issue of fact and not of law in accordance with the legal or constitutional right of a party to a trial by jury with respect to that issue.”

A spirited debate ensued, ranging from drafting suggestions to questions about whether such a provision is actually necessary or politically advisable. Some wondered whether the provision was true, while others applauded what they saw as a reasonable effort to leave the constitutional questions to the courts without inviting non-uniform enactments or judicial invalidation. In the end no consensus was reached. Paul Turner and the chair agreed to confer further.

Other controversial issues face the Subcommittee in its future meetings. Unconscionability, which caused such serious problems for Revised Article 2, also appears in the current draft of Revised Article 1. In addition, questions remain about the degree to which the UCC displaces other law (such as consumer protection statutes), the validity of choice of law clauses, and the effect of course of performance (e.g., as a waiver or modification). An agenda will be circulated in advance of the next Subcommittee meeting, tentatively scheduled for Friday, March 24, at 11:00 a.m. in Columbus, during the spring meeting of the Section of Business Law.

Additional information on the Subcommittee and its activities is available from any of the Subcommittee officers (shjenkins@ualr.edu, fmiller@ou.edu, david.snyder@law.csuohio.edu) or www.abanet.org/buslaw/cfs-ucc/subcommframe.html.

**SUBCOMMITTEE ON SALES OF GOODS**

Thomas J. McCarthy, Chair  
E.I. duPont, de Nemours and Company  
Wilmington, DE

After approval by the ALI in May, Revised Article 2 was withdrawn from consideration this year by the NCCUSL membership. The withdrawal occurred during the reading of the Revision by the Conference; and the stated reasons were (1) the overfull agenda of the Conference and the need to reduce it, and (2) questions about the enactability of the Revision based on concerns expressed by recent mailings. Reporters Dick Speidel and Linda Rusch resigned following the withdrawal.

A new Drafting Committee and Reporter have been appointed: Chair – Professor William Henning of the U. of Missouri, Boris Auerbach, Professor Marion Benfield of Wake Forest, Byron Sher, Professor James White of Michigan, and the ALI Representatives, Professors Amelia Boss of Temple and Neil Cohen of Brooklyn. The Reporter is Professor Henry Gabriel of Loyola New Orleans. The plan is to develop a new Revision for presentation to the ALI and NCCUSL annual meetings in May and July/August, respectively, of 2000.

Our Subcommittee met 8-9am, Sunday, August 8, at the ABA Annual Meeting in Atlanta. We discussed what, if anything, we might contribute to the revision process. Our discussion benefited from the input of Amy Boss, Vice Chair of the Section on Business Law and member of the former Article 2 Drafting Committee, and Fred Miller, Executive Director of NCCUSL.

Several consumer representatives suggested that any efforts by our Subcommittee would be futile. They advocated and expected that Article 2 would not be revised, but would remain in its current form.
Others thought there was much of the present Revision that should be carried over into the new one. What was decided was that our Subcommittee, through our Commentators, would identify and advocate to the new Drafting Committee those changes of significance that should be carried over into the successor Revision. To the extent we cannot reach consensus on a particular change (as has at times happened in the past given the diversity of our Subcommittee), we could offer the conflicting views. It was suggested that prefacing our comments with an executive summary would be helpful, and we shall do so.

Although, as noted, our Commentators will continue to do the drafting, any suggestions or observations from any of you would be – as always – very welcome. Simply send them to me (Thomas.J.McCarthy@usa.com) and I will ensure their distribution to the Commentators. Of course, direct contact with the appropriate Commentator is also fine. Anyone who provides me an e-mail address also can get a copy of the comments we submit to the new Drafting Committee. The Commentators are: Linda Rusch, John Wladis (Part 2), Mark Roszkowski, Don Clifford (Warranties), Christina Kunz, Patricia Tauchert, Roy Anderson (Remedies), David East, Anne Lousin.

**SUBCOMMITTEE ON INFORMATION CONTRACTING**

*Donald A. Cohn, Co-Chair*  
*E.I. DuPont, de Nemours and Company*  
*Wilmington, DE  19891*

*Mary Jo Howard Dively, Co-Chair*  
*Klett, Lieber, Rooney & Schorling*  
*Pittsburgh, PA 15219*

At the Annual Meeting in Atlanta, Co-Chairs Don Cohn and Mary Jo Dively reported with great joy that NCCUSL approved the Uniform Computer Information Transactions Act by a vote of 43-6 at its recent annual meeting. One of the main purposes of the Subcommittee has been to assist the NCCUSL UCITA Drafting Committee, and many Subcommittee members have been quite active for the past seven years researching various matters for the Drafting Committee, preparing position papers on controversial issues and generally educating the bar about the proposed Act through speaking and writing about it. Several NCCUSL Commissioners attended the Subcommittee meeting and personally thanked the Subcommittee for its diligent efforts. Mary Jo Dively then gave a brief presentation on the highlights of UCITA.

Don Cohn also was pleased to announce that the Uniform Electronic Transactions Act also had been passed by NCCUSL by an overwhelming vote at its annual meeting. Though the Subcommittee has not been as involved formally in UETA as it has in UCITA, several of the Subcommittee members have been following it closely. Don asked the Chair of the UETA Drafting Committee, Professor Patricia Fry, and the Reporter of the Drafting Committee, Professor Benjamin Beard, to update the Subcommittee on UETA. Professor Beard summarized the highlights of UETA, and Professor Fry discussed the current federal legislation on electronic transactions. Both were concerned that the federal legislation contains many traps for the unwary with regard to state laws that it will (perhaps unintentionally) affect. After some discussion, the Subcommittee decided that it would be useful to register its concerns about the federal legislation with the drafters. The Co-Chairs will meet with Professors Fry and Beard, and with Professor Rusch, the Chair of the UCC Committee, to determine the appropriate manner in which to do so. All Subcommittee members were encouraged to become actively involved in the UCITA and UETA legislation as they are introduced in their states.

The Subcommittee has an ambitious agenda for the rest of 1999 and 2000. In addition to becoming more involved in the federal electronic transactions legislation, and in the
Since the meeting, we have received several calls and e-mails from Subcommittee members expressing interest in exploring some of these issues in more depth. As products such as electronic checks develop, the Subcommittee may want to consider whether banks in the collection chain need to protect themselves from claims based on the infringement of an electronic check patent. Do we need some type of non-infringement warranty for these instruments?

Another issue that has arisen since the Annual Meeting relates to the treatment of foreign exchange transactions under Article 2 of the UCC. Some time ago, this Subcommittee expressed its belief that Article 2 should exclude foreign exchange transactions from its scope if the funds transfer settling one or both of the obligations arising from the transaction is within the scope of Article 4A. The most recent draft of Revised Article 2 adopted this recommendation. Since NCCUSL has postponed the final read of Revised Article 2 and established a new drafting committee, however, the Subcommittee may want to request that the Permanent Editorial Board issue an official comment to Article 2 addressing this issue.

Paul Turner and I would greatly appreciate your thoughts on these issues. We can be reached at stephanie.heller@ny.frb.org or paulstturner@earthlink.net. We are also always interested in knowing if there are any members of the Subcommittee on Payments or the UCC Committee who have new projects or issues that they wish the Subcommittee to entertain.

Finally, Paul and I are busy working on the Subcommittee’s agenda for the Spring Meeting in Columbus, Ohio. If things go according to plan, our Subcommittee will meet jointly with the Banking Law Committee’s Subcommittee on Payments and Electronic Banking and will discuss both the business models and the legal underpinnings of electronic bill presentment and payment services.
SUBCOMMITTEE ON LETTERS OF CREDIT

James E. Byrne, Chair
Montgomery Village, MD

Janis S. Penton, Vice-Chair
Union Bank of California, N.A.
Los Angeles, CA 90071-1602

At the Subcommittee’s meeting in Atlanta, Fred Miller listed the states that have not yet adopted revised Article 5 (Georgia, Kentucky, New York, Pennsylvania, Rhode Island, South Carolina, Puerto Rico, Virgin Islands and Wisconsin). Paul Turner, based on materials from Mike Avidon, reported on the status of adoption in New York, where the Assembly and the Senate have each adopted a different non-conforming version of Article 5. There is optimism that Article 5 will be adopted during the next legislative session.

Fred also listed and described those states that have adopted non-conforming amendments. The minutes from the meeting will give a full description, but it appears that the variations fall into three general categories: the definition of “good faith”, the issue of whether attorney fees should be mandatory or discretionary, and the question of whether “standard practice” is an issue to be considered by the court or a jury.

The U.N. Convention on standby letters of credit and demand guaranties will become effective on January 1, 2000, since five countries have adopted it (Equador, Kuwait, Panama, Tunisia, and Veneuzala). The U.S. has signed the Convention and it is anticipated that it will be introduced into the Senate in 2000.

There was discussion of the experience in implementation of the International Standby Practices. Jim Barnes gave a presentation on the questions regarding “original documents” raised by the Glencore case (interpreting Article 20b of the Uniform Customs and Practice for Documentary Credits) and the recently published International Chamber of Commerce decision. We expect to post Jim’s materials on the Subcommittee’s website. Finally, there was a brief discussion of the upcoming revision of the UCP 500 and a determination to devote most of the next two Subcommittee meetings to that discussion.

JOINT TASK FORCE ON REVISED ARTICLE 9 ENACTMENT

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Boston, MA 02110-1726

Carolan E. Berkely, Co-Chair
Ballard Spahr Andrews & Ingersoll LLP
Philadelphia, PA 19103-7599

The recently formed Joint Task Force on Revised Article 9 Enactment Process is jointly sponsored by the CFS and UCC Committees and by the American College of Commercial Finance Lawyers. The mission of the Task Force is to assist state legislators, Uniform Law Commissioners, bar groups and other interested parties in the enactment of the Uniform Official Text of Revised Article 9 of the UCC, with the view to Revised Article 9 becoming effective in each state or other UCC jurisdiction on the statute’s uniform effective date of July 1, 2001.

The Task Force seeks to carry out its mission by making available the resources of its members who are knowledgeable about Revised Article 9, as well as general and specific information that may assist states and other UCC jurisdictions in enacting Revised Article 9. The Task Force seeks to function as a clearing house for any non-uniform changes to the Official Text proposed in any state or other UCC jurisdiction, with a view to limiting the number of non-uniform changes and to insuring that any non-uniform change enacted in a jurisdiction reflects a local policy choice.
relevant to that jurisdiction, that does not interfere with the goal and net policy of national uniformity.

The Task Force is in the process of preparing a revised UCC Article 9 Enactment Guide, calling upon the experience of members of the Task Force who are currently involved in the enactment process in their jurisdictions, as well as a question and answer guide which will provide a state by state resource for describing the various choices made by each jurisdiction in electing alternatives available under Revised Article 9 and completing cross references to other statutes.

The Task Force will post both of these projects on the CJS/UCC Committee Joint Website on the ABA Network, http://www.ababet.org/buslaw/cfs-ucc/ucc/article9/home.html. In addition, the chairs of the Task Force, Edwin E. Smith at smithee@bingham.com and E. Carolan Berkley at berkley@ballardspahr.com serve as the point people for the clearing house function. Questions regarding Revised Article 9 and enactment choices can be directed to them and responses can be solicited from other Task Force members. If you are interested in joining the Task Force, please notify either of the co-chairs.

CFS SUBCOMMITTEE REPORTS

SECURED LENDING SUBCOMMITTEE

Jeffrey S. Turner, Chair
Brobeck, Phleger Harrison LLP
Los Angeles, CA

Meredith Jackson, Co-Chair
Irell & Manella LLP
Los Angeles, CA

The Secured Lending Subcommittee met jointly with the UCC Secured Transactions Subcommittee at the 1999 ABA Annual Meeting in Atlanta, Georgia, at 9am on Sunday, August 7. Pete Carson of Cooley Godward LLP, Vice Chair of the Secured Transactions Subcommittee, presented your Chair and Vice Chair with a fine bottle of French champagne to celebrate their recent wedding. Yes, it’s true, Jeff and Meredith were married on June 19. A genuine ABA success story! Thereafter, those in attendance enjoyed three stimulating presentations:

First, Steve Weise of Heller, Ehrman, White and McAuliffe LLP in Los Angeles and Ed Smith of Bingham Dana LLP in Boston led a fascinating discussion of the provisions of New Article 9 that pertain to security interests in otherwise "non-assignable" rights ranging from governmental licenses and permits to intellectual property and software licenses. They explained the evolution of New Article 9’s approach that favors the free transferability of rights to payment, and the ability to create valid and perfected security interests in otherwise non-assignable non-payment rights so long as enforcement of the security interest is limited to protect third party rights.

Second, Knox Dobbins of Sutherland, Asbill & Brennan LLP in Atlanta presented detailed materials on the subject of timber financing, explaining the many nuances of this specialized regional species of financing.

Third, Meredith Jackson made a brief presentation, constrained only by time limits, on the treatment in New Article 9 of securitization of financial asset transactions. This presentation may be repeated in more detail at a future meeting.

Materials from all three presentations should be soon posted on the committee’s web site.

The two subcommittees next will meet, again jointly, at 2 pm on Friday, March 24, 2000, in Columbus, Ohio, at the 2000 Business Law Section Spring Meeting, to be followed by a 3:30 committee-wide forum on "Stuff to do to get ready for New Article 9 in 2000." We hope to see you there!
SUBCOMMITTEE ON REAL ESTATE FINANCING

Thomas A. Snow, Chair
Carlton Fields
Tampa, FL

The Subcommittee on Real Estate Financing had a successful meeting in Atlanta at the Annual Convention. The topic of the meeting was pollution liability insurance coverage, and it featured a presentation from Thomas Owen, a representative of one of the leading insurance companies writing pollution insurance for real estate owners and lenders. Insurance for Brownfields redevelopment and lending in connection therewith was highlighted.

The Subcommittee will next meet at the Section’s Spring Meeting in Columbus. We welcome any suggestions from Section member for topics or speakers for our next meeting.

SUBCOMMITTEE ON CREDITORS’ RIGHTS

Catherine E. Bauer, Chair
Bank of America
Los Angeles, CA

Philip Warden, Vice-Chair
Pillsbury, Madison & Sutro
San Francisco, CA

The Subcommittee on Creditor’s Rights conducted a joint breakfast meeting with the Bankruptcy Litigation Subcommittee of the Business and Corporation Litigation Committee in conjunction with the National Conference of Bankruptcy Judges in San Francisco.

William Weir, Esq. of Luce, Forward, Hamilton & Scripps’ San Francisco office joined us to discuss current developments in the lender liability area. Mr. Weir is a frequent speaker on lender liability issues and he has written numerous articles on the subject.

Also, Paul Singerman, Esq. from Berger, Davis & Singerman in Miami, discussed his September 8, 1999 contempt order in which a debtor was ordered to repatriate over $7,000,000 from an offshore trust.

Our next meeting will be at the Business Law Section’s Spring Meeting in Columbus on Saturday, March 25, 2000, 3:30-5:00. No topic yet, but it will be another joint meeting with the Bankruptcy Litigation Subcommittee chaired by Philip S. Warden. It will be extremely timely whatever it is!

INTELLECTUAL PROPERTY FINANCING SUBCOMMITTEE

Peter Munoz, Co-Chair
Crosby, Heafey, Roach & May
San Francisco, CA

James Schulwolf, Co-Chair
Pepe & Hazard
Hartford, CT

The Intellectual Property Financing Subcommittee had an excellent and intellectually stimulating meeting at the ABA Annual Meeting in Atlanta. We began with a discussion of the proposed FIPSA legislation, led by John Muller of Brobeck’s San Francisco office. We then had an in-depth and lively discussion, "moderated" by Prof. Tom Ward of Maine, of practical and theoretical issues raised by FIPSA.

The intellectual property financing field continues to grow at a rapid rate and, in that connection, we have two exciting programs on tap for the 2000 Spring Meeting in Columbus. First, we will conduct a joint meeting with the Loan Documentation Subcommittee on Thursday, March 23, from 9 AM - 12 noon. The meeting will cover the life and financing cycles
of a company with multiple categories of intellectual property and which engages in traditional commerce and e-commerce. We will address issues and documentation concerns which arise in all stages of its life, both in good times and in bad. Second, we will lead a program on FIPSA, the proposed "quick fix" to the Avalon issue, and UCITA.

The program will deal with selected legal and practical concerns raised by each proposed law and will presume a fundamental knowledge of each law. We will present that program on Thursday, March 24 from 10:30 AM - 12:30 PM.

We look forward to seeing all of you in Columbus.

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THE FUTURE IS HERE TODAY!!

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DECIPHER THE CODE WITH ED SMITH’S SUMMARY!!

TRY THE TRICKY TRANSITION TIMELINES!

DON’T BE AFRAID OF REVISED ARTICLE 9!

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**The NEW Article 9**, edited by Corinne Cooper; Steven O. Weise and Edwin E. Smith, contributing authors

This timely guide provides a clear, in-depth explanation of Revised UCC Article 9, which has already been adopted by several states. It contains the full text and Official Comments for Revised Article 9 (1998), along with the complete text of current Article 9 (1995) for comparison. With chapters written by Steven O. Weise, the ABA Advisor to the Revised Article 9 Drafting Committee, and Edwin E. Smith, a member of the Drafting Committee, you’ll gain an insider’s perspective on comparisons of the rules under current and Revised Article 9, including:

- a plain-English overview of Revised Article 9
- a checklist of issues to consider as you move to the new rules
- a detailed analysis of the complex transition provisions (set out in timelines)
- 20 pages of charts that compares significant provisions of current and Revised Article 9
- a comprehensive index to Revised Article 9, with particular attention to new terms and the rules applicable to them

This book has it all, in a handy format that is easy to pop into the briefcase: Old Article 9, Revised Article 9 (with official comments) and great index.—what more could you want? So take the plunge with us all as we get ready for the new millennium and the post-revision world.

ABA BUSINESS LAW SECTION PUBLICATIONS. To order, call the ABA Service Center at 1-800-285-2221
UCC SCORECARD -- REVISIONS

ARTICLE 1 - GENERAL PROVISIONS

Latest Draft: September, 1997
Status: Drafting Committee’s next meeting is October 1999.
UCC Committee Contact: Sarah Howard Jenkins (501) 324-9937 or Fred Miller (405) 325-4699.

ARTICLE 2 – SALES AND ARTICLE 2A-LEASES

Latest Draft: Annual Meeting Draft July 1999
Status: NCCUSL postponed the final reading. Draft Committee’s next meeting not yet scheduled. See Subcommittee report above.
UCC Committee Contact: Thomas J. McCarthy (302) 892-7906.

ARTICLE 5 - LETTERS OF CREDIT

Latest Revision 1995. Revised Article 5 has been adopted by at least 38 states.
UCC Committee Contact: James G. Barnes (312) 861-2854.

ARTICLE 7 - DOCUMENTS OF TITLE

Latest Draft: No draft.
Status: The Article 7 Task Force has been reactivated. NCCUSL has asked the Task Force to prepare a report on the issues that an Article 7 revision would likely address. The Task Force hopes to have a report to NCCUSL by Summer 2000.
UCC Committee Contact: Drew L. Kershen (405) 325-4784.

ARTICLE 8 – INVESTMENT SECURITIES

Latest Revision 1995: Revised Article 8 has been adopted by all states other than Rhode Island and South Carolina.
UCC Committee Contact: Sandra M. Rocks (212) 225-2780.

ARTICLE 9 – SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPER

Latest Revision 1998: Revised Article 9 is being presented to the states for adoption. It has been adopted in 7 states.
UCC Committee Contact: Steven O. Weise (213) 244-7831.

UNIFORM ELECTRONIC TRANSACTIONS ACT

Final Version 1999: UETA was approved by NCCUSL in July 1999 and is in the process of final editing by NCCUSL’s style committee. It should be available to the states for adoption by the end of the year.
UCC Committee Contact: C. Robert Beattie, (612) 607-7000

UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT

Final Version 1999: UCITA was approved by NCCUSL in July 1999 and is in the process of final editing by NCCUSL’s style committee. It should be available to the states for adoption by the end of the year.
UCC Committee Contact: Donald A. Cohn (302) 773-3521.

UNIFORM CONSUMER LEASES ACT

Latest Draft: September 1999
Status: Last meeting was September 1999. Drafting Committee’s next meeting not yet scheduled.
UCC Committee Contact: Michelle Hughes (757) 499-8800.
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**AS OF October 1, 1999**

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Please note that the Enactment Date does not necessarily reflect the effective date. Please refer to the applicable statute for the relevant effective date.

Our thanks to John McCabe and Katie Robinson at the National Conference of Commissioners on Uniform State Laws for their help in compiling the information above. These revisions are based on the information available as of October 1, 1999.

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1 South Dakota has adopted only 1987 Official Text without the 1990 Amendments.

2 States that have repealed Article 6 are identified by indicating "Repeal" next to the state name; states adopting the revisions suggested in Alternative B to the 1989 Official Text are identified by indicating "Revise" next to the state name.

3 In addition to the enactments noted, Puerto Rico has only adopted the following Articles: Article 1, Article 4A, the original versions of Article 5 and Article 7, and the 1972 version of Article 9.
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